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6 **BEFORE THE**
7 **BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 937-A

11 **PAUL CONSTANTINE ORPHAN**
12 **1777 Havencrest Drive**
13 **Reno, Nevada 89523**

DEFAULT DECISION AND ORDER

14 **Civil Engineer License No. C35231**

[Gov. Code, §11520]

15 Respondent.

16 **FINDINGS OF FACT**

17 1. On or about May 5, 2010, Complainant David E. Brown, in his official capacity as
18 the Executive Officer of the Board for Professional Engineers and Land Surveyors, Department
19 of Consumer Affairs, filed Accusation No. 937-A against Paul Constantine Orphan (Respondent)
20 before the Board for Professional Engineers and Land Surveyors.

21 2. On or about August 18, 1982, the Board for Professional Engineers and Land
22 Surveyors (Board) issued Civil Engineer License No. C 35231 to Respondent. The Civil
23 Engineer License expired on September 30, 2009, and has not been renewed.

24 3. On or about May 18, 2010, Gloria Montano, an employee of the Department of
25 Justice, served by Certified and First Class Mail a copy of the Accusation No. 937-A, Statement
26 to Respondent, Notice of Defense, Request for Discovery, and Government Code sections
27 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and
28 is 1777 Havencrest Drive, Reno, Nevada 89523.

1 A copy of the Accusation is attached as exhibit A, and is incorporated herein by reference.

2 4. Service of the Accusation was effective as a matter of law under the provisions of
3 Government Code section 11505, subdivision (c).

4 5. On or about May 24, 2010, the aforementioned documents were returned by the U.S.
5 Postal Service marked "Not Deliverable As Addressed -Unable To Forward." Copies of the
6 returned mailings are attached hereto.

7 6. Business and Professions Code section 118 states, in pertinent part:

8 (b) The suspension, expiration, or forfeiture by operation of law of a license
9 issued by a board in the department, or its suspension, forfeiture, or cancellation by
10 order of the board or by order of a court of law, or its surrender without the written
11 consent of the board, shall not, during any period in which it may be renewed,
12 restored, reissued, or reinstated, deprive the board of its authority to institute or
continue a disciplinary proceeding against the licensee upon any ground provided by
law or to enter an order suspending or revoking the license or otherwise taking
disciplinary action against the license on any such ground.

13 7. Government Code section 11506 states, in pertinent part:

14 (c) The respondent shall be entitled to a hearing on the merits if the respondent
15 files a notice of defense, and the notice shall be deemed a specific denial of all parts
16 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

17 8. Respondent failed to file a Notice of Defense within 15 days after service upon him
18 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
19 937-A.

20 9. California Government Code section 11520 states, in pertinent part:

21 (a) If the respondent either fails to file a notice of defense or to appear at the
22 hearing, the agency may take action based upon the respondent's express admissions
23 or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

24 10. Pursuant to its authority under Government Code section 11520, the Board finds
25 Respondent is in default. The Board will take action without further hearing and, based on the
26 evidence on file herein, finds that the allegations in Accusation No. 937-A are true.

27 11. The total cost for investigation and enforcement in connection with the Accusation
28 are \$680.00 as of August 23, 2010.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Paul Constantine Orphan has subjected his Civil Engineer License No. C 35231 to discipline.

2. A copy of the Accusation is attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Board for Professional Engineers and Land Surveyors is authorized to revoke Respondent's Civil Engineer License based upon the following violations alleged in the Accusation:

a. Business and Professions Code section 6775, subsection (a) (Substantially Related Criminal Conviction). Respondent was convicted on his pleas of guilty to five felony counts of the crime of Grand Theft in the case entitled *State of Nevada vs. Paul Constantine Orphan* (State of Nevada, County of Washoe, Case No. CR08-1352). A certified copy of the criminal conviction records in Case No. CR08-1352 is attached hereto.

b. Business and Professions Code section 141 (Out-of-State Discipline). Effective February 12, 2009, Respondent's license to practice as a Professional Civil Engineer was revoked by the Nevada State Board of Professional Engineers and Land Surveyors. A certified copy of the *Stipulated Agreement of Paul C. Orphan, a Professional Civil Engineer, License No. CE006402*, is attached hereto.

c. Business and Professions Code section 6775, subsection (b) (Deceit in the Practice of Professional Engineering).

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Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

It is so ORDERED November 17, 2010

default decision_LIC.rtf
DOJ docket number:SA2010100904

Exhibit A: Accusation No.937-A

Exhibit B: Returned Mailings

Exhibit C: Certified Conviction Documents

Exhibit D: Certified Nevada Disciplinary Decision & Order

Exhibit A
Accusation No. 937-A

1 EDMUND G. BROWN JR.
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 JANICE K. LACHMAN
Supervising Deputy Attorney General
4 State Bar No. 186131
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-7384
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 937-A

12 **PAUL CONSTANTINE ORPHAN**
1777 Havencrest Drive
13 **Reno, Nevada 89523**

A C C U S A T I O N

14 **Civil Engineer License No. C35231**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. David E. Brown (Complainant) brings this Accusation solely in his official capacity
20 as the Executive Officer of the Board for Professional Engineers and Land Surveyors,
21 Department of Consumer Affairs.

22 2. On or about August 18, 1982, the Board for Professional Engineers and Land
23 Surveyors issued Civil Engineer License Number C 35231 to Paul Constantine Orphan
24 (Respondent). The Civil Engineer License expired on September 30, 2009, and has not been
25 renewed.

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27 ///

JURISDICTION

3. This Accusation is brought before the Board for Professional Engineers and Land Surveyors (Board), Department of Consumer Affairs, under the authority of the following laws.

All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 6775 of the Code states, in pertinent part, that "[T]he board may reprove, suspend for a period not to exceed two years, or revoke the certificate of any professional engineer registered under this chapter:

"(a) Who has been convicted of a crime substantially related to the qualifications, functions and duties of a registered professional engineer, in which case the certified record of conviction shall be conclusive evidence thereof.

"(b) Who has been found guilty by the board of any deceit, misrepresentation, or fraud in his or her practice."

5. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

6. Section 141 of the Code states:

"(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

"(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country."

1 **FIRST CAUSE FOR DISCIPLINE**

2 (Conviction of Substantially Related Crime)

3 7. Respondent is subject to disciplinary action under section 6775, subsection (a), in that
4 on or about October 14, 2008, in the State of Nevada, County of Washoe, in Case No. CR08-
5 1352, entitled *State of Nevada vs. Paul Constantine Orphan*, Respondent was convicted on his
6 pleas of guilty to five felony counts of the crime of Grand Theft. The circumstances of the crime
7 are that while working as a Professional Civil Engineer and employed by the Department of
8 Water Resources of Washoe County in Nevada, Respondent stole a significant amount of money
9 from his employer. More specifically, on one or more occasions, purportedly acting in his
10 capacity as an engineer with the Washoe County Water Resources Division, Respondent sought
11 or authorized the issuance of checks, drawn on a Washoe County account and made payable to
12 various entities, purportedly to pay for well capacity rights or other water rights, and once the
13 checks were issued, diverted the funds to himself. As part of his sentencing, Respondent was
14 ordered to serve: a minimum term of 48 months to a maximum term of 120 months on Count I; a
15 minimum term of 48 months to a maximum term of 120 months on each of Counts II and III, to
16 run consecutively to the sentence imposed on Count I; a minimum term of 48 months to a
17 maximum term of 120 months in Nevada State Prison on each of Counts IV and V, to run
18 concurrently with the sentences imposed in Counts I, II, and III. In addition, Respondent was
19 ordered to pay restitution in the amount of \$2,214,215.

20 **SECOND CAUSE FOR DISCIPLINE**

21 (Out of State Discipline)

22 8. Respondent is subject to disciplinary action under section 141 in that on or about
23 February 2, 2009, in the matter entitled *Stipulated Agreement of Paul C. Orphan, a Professional*
24 *Civil Engineer, License No. CE 006402*, Respondent entered into a stipulated agreement with the
25 Nevada State Board of Professional Engineers and Land Surveyors in which Respondent's license
26 as a Professional Civil Engineer was revoked, effective February 12, 2009. The disciplinary
27 action was based upon Respondent's criminal conviction, as more fully set forth above in
28 paragraph 7.

1 **THIRD CAUSE FOR DISCIPLINE**

2 (Deceit in the Practice of Professional Engineering)

3 9. Respondent is subject to disciplinary action under section 6775, subsection (b), in that
4 while employed by and working as a Professional Engineer for the Department of Water
5 Resources for the County of Washoe in Nevada, Respondent engaged in acts of deceit,
6 misrepresentation and/or fraud, as more fully set forth above in paragraph 7.

7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Board for Professional Engineers and Land Surveyors issue a
10 decision:

- 11 1. Revoking or suspending Civil Engineer License Number C 35231, issued to Paul
12 Constantine Orphan;
- 13 2. Ordering Paul Constantine Orphan to pay the Board for Professional Engineers and
14 Land Surveyors the reasonable costs of the investigation and enforcement of this case, pursuant to
15 Business and Professions Code section 125.3;
- 16 3. Taking such other and further action as deemed necessary and proper.
- 17
- 18

19 DATED: 5/5/10

Original Signed

20 DAVID E. BROWN
21 Executive Officer
22 Board for Professional Engineers and Land Surveyors
23 Department of Consumer Affairs
24 State of California
25 *Complainant*

26 SA2010100904
27 accusation.rtf
28

Exhibit B
Returned Mailings

Janice K. Lachman
Office of the Attorney General
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550

RECEIVED
ATTORNEY GENERAL
2010 MAY 24 PM 12:01
DEPARTMENT OF JUSTICE
SACRAMENTO OFFICE

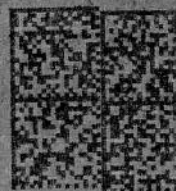
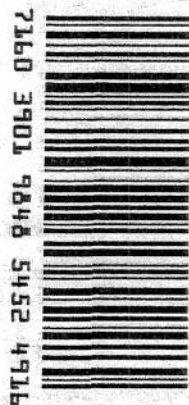
NOT DELIVERABLE
AS ADDRESSEE
UNABLE TO FORWARD

Paul Constantine Orphan
1777 Havencrest Drive
Reno, Nevada 89523

NOT DELIVERABLE
AS ADDRESSEE
UNABLE TO FORWARD

WTF

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05/18
Mailed From
US PO

WTF

Thank you for using Return Receipt Service

RETURN RECEIPT REQUESTED
USPS MAIL CARRIER
DETACH ALONG PERFORATION

2. Article Number



3. Service Type **CERTIFIED MAIL**
4. Restricted Delivery? (Extra Fee) ☐ Yes
1. Article Addressed to:

Paul Constantine Orphan
1777 Havencrest Drive
Reno, Nevada 89523

PS Form 3811, January 2005

Domestic Return Receipt

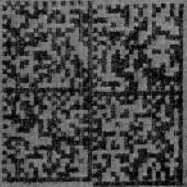
COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery
C. Signature **X**
D. Is delivery address different from item 1? ☐ Agent
If YES, enter delivery address below: ☐ Addressee
☐ Yes ☐ No

SA2010100904
Acc and Acc Pack
Janice K. Lachman

Thank you for using Return Receipt Service

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STATE OF CALIFORNIA
DEPARTMENT OF JUSTICE
OFFICE OF ATTORNEY GENERAL
P.O. BOX 944255
SACRAMENTO, CA 94244-2550

Paul Constantine Orphan
1777 Havencrest Drive
Reno, NV 89523

NOT DELIVERABLE
AS ADDRESSED
UNABLE TO FORWARD

1 EDMUND G. BROWN JR.
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 JANICE K. LACHMAN
Supervising Deputy Attorney General
4 State Bar No. 186131
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-7384
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11
12 In the Matter of the Accusation Against:

13 **PAUL CONSTANTINE ORPHAN**
14 **1777 Havencrest Drive**
Reno, Nevada 89523

15 Civil Engineer License No. C35231,
16

17 Respondent.
18

Case No. 937-A

19 **STATEMENT TO RESPONDENT**

[Gov. Code §§ 11504, 11505(b)]

20 **TO RESPONDENT:**

21 Enclosed is a copy of the Accusation that has been filed with the Board for Professional
22 Engineers and Land Surveyors of the Department of Consumer Affairs (Board), and which is
23 hereby served on you.

24 Unless a written request for a hearing signed by you or on your behalf is delivered or
25 mailed to the Board, represented by Supervising Deputy Attorney General Janice K. Lachman
26 within fifteen (15) days after a copy of the Accusation was personally served on you or mailed to
27 you, you will be deemed to have waived your right to a hearing in this matter and the Board may
28 proceed upon the Accusation without a hearing and may take action thereon as provided by law.

1 The request for hearing may be made by delivering or mailing one of the enclosed forms
2 entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided in
3 section 11506 of the Government Code, to

4 **Janice K. Lachman**
5 **Supervising Deputy Attorney General**
6 **1300 I Street, Suite 125**
7 **P.O. Box 944255**
8 **Sacramento, California 94244-2550**

9 You may, but need not, be represented by counsel at any or all stages of these proceedings.

10 The enclosed Notice of Defense, if signed and filed with the Board, shall be deemed a
11 specific denial of all parts of the Accusation, but you will not be permitted to raise any objection
12 to the form of the Accusation unless you file a further Notice of Defense as provided in section
13 11506 of the Government Code within fifteen (15) days after service of the Accusation on you.

14 If you file any Notice of Defense within the time permitted, a hearing will be held on the
15 charges made in the Accusation.

16 The hearing may be postponed for good cause. If you have good cause, you are obliged to
17 notify the Office of Administrative Hearings, Attn: General Jurisdiction, 2349 Gateway Oaks,
18 Suite 200, Sacramento, CA 95833-4231, within ten (10) working days after you discover the
19 good cause. Failure to notify the Office of Administrative Hearings within ten (10) days will
20 deprive you of a postponement.

21 Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are enclosed.

22 If you desire the names and addresses of witnesses or an opportunity to inspect and copy
23 the items mentioned in section 11507.6 of the Government Code in the possession, custody or
24 control of the Board you may send a Request for Discovery to the above designated Supervising
25 Deputy Attorney General.

26 **NOTICE REGARDING STIPULATED SETTLEMENTS**

27 It may be possible to avoid the time, expense and uncertainties involved in an
28 administrative hearing by disposing of this matter through a stipulated settlement. A stipulated
settlement is a binding written agreement between you and the government regarding the matters


1 charged and the discipline to be imposed. Such a stipulation would have to be approved by the
2 Board for Professional Engineers and Land Surveyors but, once approved, it would be
3 incorporated into a final order.

4 Any stipulation must be consistent with the Board's established disciplinary guidelines;
5 however, all matters in mitigation or aggravation will be considered. A copy of the Board's
6 Disciplinary Guidelines will be provided to you on your written request to the state agency
7 bringing this action.

8 If you are interested in pursuing this alternative to a formal administrative hearing, or if you
9 have any questions, you or your attorney should contact Supervising Deputy Attorney General
10 Janice K. Lachman at the earliest opportunity.

11 Dated: May 17, 2010

EDMUND G. BROWN JR.
Attorney General of California
ALFREDO TERRAZAS
Senior Assistant Attorney General

14 
15 JANICE K. LACHMAN
16 Supervising Deputy Attorney General
17 *Attorneys for Complainant*

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1 EDMUND G. BROWN JR.
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 JANICE K. LACHMAN
Supervising Deputy Attorney General
4 State Bar No. 186131
1300 I Street, Suite 125
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6 Telephone: (916) 445-7384
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 937-A

12 **PAUL CONSTANTINE ORPHAN**
1777 Havencrest Drive
13 **Reno, Nevada 89523**

A C C U S A T I O N

14 **Civil Engineer License No. C35231**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. David E. Brown (Complainant) brings this Accusation solely in his official capacity
20 as the Executive Officer of the Board for Professional Engineers and Land Surveyors,
21 Department of Consumer Affairs.

22 2. On or about August 18, 1982, the Board for Professional Engineers and Land
23 Surveyors issued Civil Engineer License Number C 35231 to Paul Constantine Orphan
24 (Respondent). The Civil Engineer License expired on September 30, 2009, and has not been
25 renewed.

26 ///

27 ///

JURISDICTION

3. This Accusation is brought before the Board for Professional Engineers and Land Surveyors (Board), Department of Consumer Affairs, under the authority of the following laws.

All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 6775 of the Code states, in pertinent part, that "[T]he board may reprove, suspend for a period not to exceed two years, or revoke the certificate of any professional engineer registered under this chapter:

"(a) Who has been convicted of a crime substantially related to the qualifications, functions and duties of a registered professional engineer, in which case the certified record of conviction shall be conclusive evidence thereof.

"(b) Who has been found guilty by the board of any deceit, misrepresentation, or fraud in his or her practice."

5. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

6. Section 141 of the Code states:

"(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

"(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country."

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FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

7. Respondent is subject to disciplinary action under section 6775, subsection (a), in that on or about October 14, 2008, in the State of Nevada, County of Washoe, in Case No. CR08-1352, entitled *State of Nevada vs. Paul Constantine Orphan*, Respondent was convicted on his pleas of guilty to five felony counts of the crime of Grand Theft. The circumstances of the crime are that while working as a Professional Civil Engineer and employed by the Department of Water Resources of Washoe County in Nevada, Respondent stole a significant amount of money from his employer. More specifically, on one or more occasions, purportedly acting in his capacity as an engineer with the Washoe County Water Resources Division, Respondent sought or authorized the issuance of checks, drawn on a Washoe County account and made payable to various entities, purportedly to pay for well capacity rights or other water rights, and once the checks were issued, diverted the funds to himself. As part of his sentencing, Respondent was ordered to serve: a minimum term of 48 months to a maximum term of 120 months on Count I; a minimum term of 48 months to a maximum term of 120 months on each of Counts II and III, to run consecutively to the sentence imposed on Count I; a minimum term of 48 months to a maximum term of 120 months in Nevada State Prison on each of Counts IV and V, to run concurrently with the sentences imposed in Counts I, II, and III. In addition, Respondent was ordered to pay restitution in the amount of \$2,214,215.

SECOND CAUSE FOR DISCIPLINE

(Out of State Discipline)

8. Respondent is subject to disciplinary action under section 141 in that on or about February 2, 2009, in the matter entitled *Stipulated Agreement of Paul C. Orphan, a Professional Civil Engineer, License No. CE 006402*, Respondent entered into a stipulated agreement with the Nevada State Board of Professional Engineers and Land Surveyors in which Respondent's license as a Professional Civil Engineer was revoked, effective February 12, 2009. The disciplinary action was based upon Respondent's criminal conviction, as more fully set forth above in paragraph 7.

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THIRD CAUSE FOR DISCIPLINE

(Deceit in the Practice of Professional Engineering)


9. Respondent is subject to disciplinary action under section 6775, subsection (b), in that while employed by and working as a Professional Engineer for the Department of Water Resources for the County of Washoe in Nevada, Respondent engaged in acts of deceit, misrepresentation and/or fraud, as more fully set forth above in paragraph 7.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board for Professional Engineers and Land Surveyors issue a decision:

1. Revoking or suspending Civil Engineer License Number C 35231, issued to Paul Constantine Orphan;
2. Ordering Paul Constantine Orphan to pay the Board for Professional Engineers and Land Surveyors the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 5/5/10


DAVID E. BROWN
Executive Officer
Board for Professional Engineers and Land Surveyors
Department of Consumer Affairs
State of California
Complainant

SA2010100904
accusation.rtf

1 EDMUND G. BROWN JR.
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 JANICE K. LACHMAN
Supervising Deputy Attorney General
4 State Bar No. 186131
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-7384
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
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10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Accusation Against:

Case No. 937-A

12 **PAUL CONSTANTINE ORPHAN**
13 **1777 Havencrest Drive**
Reno, Nevada 89523

REQUEST FOR DISCOVERY

14 Civil Engineer License No. C35231,

15 Respondent.

16
17
18 **TO RESPONDENT:**

19 Under section 11507.6 of the Government Code of the State of California, parties to an
20 administrative hearing, including the Complainant, are entitled to certain information concerning
21 the opposing party's case. A copy of the provisions of section 11507.6 of the Government Code
22 concerning such rights is included among the papers served.

23 PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU ARE
24 HEREBY REQUESTED TO:

- 25 1. Provide the names and addresses of witnesses to the extent known to the Respondent,
26 including, but not limited to, those intended to be called to testify at the hearing, and
27 2. Provide an opportunity for the Complainant to inspect and make a copy of any of the
28 following in the possession or custody or under control of the Respondent:

1 a. A statement of a person, other than the Respondent, named in the initial
2 administrative pleading, or in any additional pleading, when it is claimed that the act or
3 omission of the Respondent as to this person is the basis for the administrative proceeding;

4 b. A statement pertaining to the subject matter of the proceeding made by
5 any party to another party or persons;

6 c. Statements of witnesses then proposed to be called by the Respondent and
7 of other persons having personal knowledge of the acts, omissions or events which are the
8 basis for the proceeding, not included in (a) or (b) above;

9 d. All writings, including but not limited to reports of mental, physical and
10 blood examinations and things which the Respondent now proposes to offer in evidence;

11 e. Any other writing or thing which is relevant and which would be
12 admissible in evidence, including but not limited to, any patient or hospital records
13 pertaining to the persons named in the pleading;

14 f. Investigative reports made by or on behalf of the Respondent pertaining
15 to the subject matter of the proceeding, to the extent that these reports (1) contain the names
16 and addresses of witnesses or of persons having personal knowledge of the acts, omissions
17 or events which are the basis for the proceeding, or (2) reflect matters perceived by the
18 investigator in the course of his or her investigation, or (3) contain or include by attachment
19 any statement or writing described in (a) to (e), inclusive, or summary thereof.

20 For the purpose of this Request for Discovery, "statements" include written statements by
21 the person, signed, or otherwise authenticated by him or her, stenographic, mechanical, electrical
22 or other recordings, or transcripts thereof, of oral statements by the person, and written reports or
23 summaries of these oral statements.

24 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for Discovery
25 should be deemed to authorize the inspection or copying of any writing or thing which is
26 privileged from disclosure by law or otherwise made confidential or protected as attorney's work
27 product.
28

1 Your response to this Request for Discovery should be directed to the undersigned attorney
2 for the Complainant at the address on the first page of this Request for Discovery within 30 days
3 after service of the Accusation.

4 Failure without substantial justification to comply with this Request for Discovery may
5 subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30 of the
6 Government Code.

7
8 Dated: May 17, 2010

EDMUND G. BROWN JR.
Attorney General of California
ALFREDO TERRAZAS
Senior Assistant Attorney General

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11 
12 JANICE K. LACHMAN
13 Supervising Deputy Attorney General
14 *Attorneys for Complainant*

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**BEFORE THE
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Accusation Against:

PAUL CONSTANTINE ORPHAN
1777 Havencrest Drive
Reno, Nevada 89523

Civil Engineer License No. C35231,

Respondent.

Case No. 937-A

NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; Disciplinary Guidelines; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

Dated: _____

Respondent's Name: _____

Respondent's Signature: _____

Respondent's Mailing

Address: _____

City, State and Zip Code: _____

Respondent's Telephone: _____

Check appropriate box:

- ☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone Number _____

- ☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

**BEFORE THE
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Accusation Against:

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Check appropriate box:

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The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7
PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505

SECTION 11507.5: Exclusivity of discovery provisions

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

SECTION 11507.6: Request for discovery

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL

(Separate Mailings)

Case Name: **In the Matter of the Accusation Against:
PAUL CONSTANTINE ORPHAN**

BPELS No.: **937-A**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On May 18, 2010, I served the attached **STATEMENT TO RESPONDENT, ACCUSATION, REQUEST FOR DISCOVERY, NOTICE OF DEFENSE (two copies), GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **STATEMENT TO RESPONDENT, ACCUSATION, REQUEST FOR DISCOVERY, NOTICE OF DEFENSE (two copies), GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7** was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

Paul Constantine Orphan
1777 Havencrest Drive
Reno, Nevada 89523

Certified Article Number

7160 3901 9848 5452 4916

SENDERS RECORD

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on May 18, 2010, at Sacramento, California.

Gloria Montano
Declarant

Signature

Exhibit C
Certified Conviction Documents

1 CODE 1850

ORIGINAL

FILED

OCT 14 2008

HOWARD W. CONYERS, CLERK
By: *[Signature]*
DEPUTY CLERK

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

STATE OF NEVADA,

Plaintiff,

vs.

Case No. CR08-1352

PAUL CONSTANTINE ORPHAN,

Dept. No. 8

Defendant.

JUDGMENT

The Defendant, having entered pleas of Guilty, and no sufficient cause being shown by Defendant as to why judgment should not be pronounced against him, the Court rendered judgment as follows:

That Paul Constantine Orphan is guilty of the crime of Grand Theft, a violation of NRS 205.0832 and NRS 205.0835, a felony, as charged in Counts I, II, III, IV and V, and that he be punished by imprisonment in the Nevada State Prison for a minimum term of forty-eight (48) months to a maximum term of one hundred twenty (120) months and by payment of a fine in the amount of One Thousand Dollars (\$1,000.00) on Count I, a minimum term of forty-eight (48) months to a maximum term of one hundred twenty (120) months Nevada State Prison and by payment of a fine in the amount of One Hundred Dollars (\$100.00) on each of Counts II and III, to run consecutively to the sentence imposed in Count I; a minimum term of forty-eight (48) months to a maximum term of one hundred twenty (120) months Nevada State Prison and by payment of a fine

CR08-1352
STATE VS. PAUL CONSTANTINE ORPHAN
District Court
Washoe County
Nevada
10/14/2008 10:38 AM
BJOHNSON

1 in the amount of One Hundred Dollars (\$100.00) on each of Counts IV and V, to run
2 concurrently with the sentences imposed in Counts I, II and III. The Defendant is given
3 credit for one hundred eighteen (118) days time. It is further ordered that the Defendant
4 pay the statutory Twenty-Five Dollar (\$25.00) administrative assessment fee, pay the One
5 Hundred Fifty Dollar (\$150.00) DNA testing fee and effect restitution in the amount of Two
6 Million Two Hundred Fourteen Thousand Two Hundred Fifteen Dollars (\$2,214,215.00).

7 Dated this 14th day of October, 2008.

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Howard W. Conyers
Clerk of the Court
Transaction # 410394

CASE NO. CR08-1352

STATE OF NEVADA VS. PAUL CONSTANTINE ORPHAN

DATE, JUDGE
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

10/14/08

ENTRY OF JUDGMENT AND IMPOSITION OF SENTENCE

HONORABLE

Deputy District Attorney Daniel Greco represented the State.

STEVEN R.

Defendant was present with counsel, John Oakes and Dave Sptizer.

KOSACH

Probation Officer Cheri Konvicka was also present.

DEPT. NO. 8

Opening remarks presented by respective counsel.

B. Johnson

Earl S. Neilson, called by counsel Sptizer, sworn and testified, cross examined by the State, redirect examined, recross examined.

(Clerk)

I. Zihn

Mary Simmons, called by counsel Oakes, sworn and testified, cross examined.

(Reporter)

Jon Collins, called by counsel Oakes, sworn and testified, cross examined.

Victim impact statements were made by the following:

Ben Hutchins

Rosemary Menard

Respective counsel addressed the Court. Probation Officer and the Defendant addressed the Court.

COURT ORDERED: The Defendant, having entered pleas of Guilty, and no sufficient cause being shown by Defendant as to why judgment should not be pronounced against him, the Court rendered judgment as follows: That Paul Constantine Orphan is guilty of the crime of Grand Theft, a violation of NRS 205.0832 and NRS 205.0835, a felony, as charged in Counts I, II, III, IV and V, and that he be punished by imprisonment in the Nevada State Prison for a minimum term of forty-eight (48) months to a maximum term of one hundred twenty (120) months and by payment of a fine in the amount of One Thousand Dollars (\$1,000.00) on Count I, a minimum term of forty-eight (48) months to a maximum term of one hundred twenty (120) months Nevada State Prison and by payment of a fine in the amount of One Hundred Dollars (\$100.00) on each of Counts II and III, to run consecutively to the sentence imposed in Count I; a minimum term of forty-eight (48) months to a maximum term of one hundred twenty (120) months Nevada State Prison and by payment of a fine in the amount of One Hundred Dollars (\$100.00) on each of Counts IV and V, to run concurrently with the sentences imposed in Counts I, II and III.

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DATE, JUDGE
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

10/14/08

ENTRY OF JUDGMENT AND IMPOSITION OF SENTENCE

Page 2

The Defendant is given credit for one hundred eighteen (118) days time. It is further ordered that the Defendant pay the statutory Twenty-Five Dollar (\$25.00) administrative assessment fee, pay the One Hundred Fifty Dollar (\$150.00) DNA testing fee and effect restitution in the amount of Two Million Two Hundred Fourteen Thousand Two Hundred Fifteen Dollars (\$2,214,215.00).

Counsel for State moved to have items from frozen accounts forfeited and applied towards restitution, counsel Oakes objected to the procedure but stipulated to have forfeiture done in writing; so ordered.

Defendant remanded to the custody of the Sheriff

Exhibit D
Certified Nevada Disciplinary Decision & Order

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STIPULATED AGREEMENT
OF
PAUL C. ORPHAN, a Professional Civil Engineer
LICENSE NO. CE 006402

This Stipulated Agreement is made by and between the Nevada State Board of Professional Engineers and Land Surveyors (the "State Board") and Paul C. Orphan, licensed as a professional civil engineer in the State of Nevada under license number CE 006402. Upon his review of the allegations presented against him and having had the opportunity to confer with counsel of his own selection, Mr. Orphan acknowledges that the facts and circumstances leading up to his plea of guilty to five (5) felony offenses of Grand Theft were directly related to his work and employment as a Professional Civil Engineer in the employ of Washoe County, State of Nevada, and that he has been convicted of crimes, an essential element of which is dishonesty or which is directly related to the practice of professional engineering in the State of Nevada.

Mr. Orphan further acknowledges that his conduct in stealing millions of dollars from his employer violates the code of conduct for Professional Engineers licensed in the State of Nevada, including but not limited to NAC 625.510 and NAC 625.530.

Pursuant to NAC 625.640, this matter may be resolved without a formal hearing by Stipulated Agreement on the following basis:

1. Mr. Orphan shall pay an administrative fine of \$15,000.00.
2. Mr. Orphan shall pay assessed investigative costs and fees in the amount of \$1,500.00.
3. Mr. Orphan's license as a Professional Civil Engineer in the State of Nevada is revoked.

1
I CERTIFY THIS TO BE A TRUE AND
EXACT COPY OF THE ORIGINAL

COMPLIANCE OFFICER
4/21/09
DATE

1 4. Mr. Orphan may not apply for re-licensure until he has fully paid the
2 administrative fine, costs and fees agreed to in this Stipulation and the fine, costs and
3 restitution ordered in the Judgment entered on October 14, 2008, a copy of which is
4 attached as Exhibit "1" to this Stipulated Agreement.
5

6 5. The imposition of the discipline set forth in this Stipulated Agreement
7 does not limit the powers of the State Board to impose further discipline upon Mr.
8 Orphan on matters not yet presented to the State Board.
9

10
11
12 I, Paul C. Orphan, have read the above Stipulated Agreement, understand its
13 contents, and accept the conditions set forth within it.
14

15
16 Signed:  Date: 2/2/09
17 PAUL C. ORPHAN
18

19 I, Paul C. Orphan, have read the Stipulated Agreement and accept the conditions
20 set forth within it.
21

22 Signed:  Date: 2/2/09
23 PAUL C. ORPHAN
24

25 This Stipulated Agreement is approved by the Nevada State Board of
26 Professional Engineers and Land Surveyors.
27

28 Date: 2/12/09


Signed: 
PATY MAMOLA, P.E.
Chairman

EXHIBIT 1

EXHIBIT 1

CR08-1352 PAUL CONSTANTINE ORPHAN
STATE VS. PAUL CONSTANTINE ORPHAN
District Court
Washoe County
DC-990004374-048
10/14/2008 10:38 AM
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FILED

OCT 14 2008

HOWARD W. CONYERS, CLERK
By *[Signature]*
DEPUTY CLERK

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IN AND FOR THE COUNTY OF WASHOE

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